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CONTAINING A

CORRECT AND IMPORTANT

ELUCIDATION

OF THE SUBJECT OF

MR. HASTINGS's IMPEACHMENT.

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THIRD PART.

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LETTER IV.

THIRD ARTICLE *of the* IMPEACHMENT.

THE PRESENTS.

I AM now going to treat of the *Third Article* brought to Trial, though it is numbered the Sixth in the Catalogue of Charges. The subject of this Article is the receipt of *Presents*, which seem to be divided into two heads: the first, are the *concealed Presents*, as the MANAGERS call them, and of which Mr. HASTINGS denies the receipt. The second, are the *avowed Presents*, that is, such as Mr. HASTINGS admits having received for the Company's use.

Now you are to know, that an act was passed in the year 1773, and took place in September 1774, which prohibits the reception of Presents, that is, it declares that no Servant of the Company shall receive any donation from a Native of India; and that if any Gifts or Presents are received, they shall be paid to the Company, and considered as having been received for their use. I have not the Act before me, and therefore cannot state the words; but the construction put upon the Act was, that no individual could receive money by way of Gift for his own use, but that he might do so for the benefit of the Company. There is certainly an obscurity in the wording of the Act, which is corrected by another passed in 1784: I mean, that the obscure clauses are cleared up; and it is declared that no Present shall be taken either for the use of the individual or the Company.

By the Act above quoted, that Clause in the preceding Act, which subjects the Receiver of Presents to certain penalties, is repealed, and cannot operate, unless the suit

suit was actually commenced previous to the 1st of January 1785. I state this, because the MANAGERS, by their own construction of the Act of 1773, consider Mr. HARTINGS as criminal for having received Presents avowedly for the use of the Company. In this case it is observable, that what Mr. HASTINGS considered as meritorious, by his construction of the Act, the MANAGERS consider as criminal by their construction; that is, the former thought he might legally accept Presents for the Company's use, and the latter think that he could not. This is a very nice and subtle point of Law; but surely if there be any thing wrong in this, it must be imputed to those who penned the Act, for, if it were meant to exclude the Company, they should have said *neither for the use of himself or the Company*, or they should have said, that neither the Company, nor their *Servants, shall receive Presents from the Natives*. There could then have been no mistake. I should think the MANAGERS will not insist on this point; but if they do, and the LORDS agree with them in the construction

struction of the Act, Mr. HASTINGS must be found guilty, that is, he will be found guilty of being a bad Lawyer, but not guilty of having acted intentionally wrong.

In treating of these *Presents*, I shall begin with those which the MANAGERS call the *co ealed Presents*, and I shall, as I have done in the former Charges, extract the substance of the accusation and the defence: you may form some idea of the complexity of this Article, when Mr. BURKE was engaged for three days and part of the fourth, in opening it in part only. There is one thing in his opening, which I cannot pass over, though it is in fact irrevelent to the Charge. It happened, that some time before the HOUSE of LORDS proceeded to the Trial in April last, the Natives of India sent over a great number of Petitions and Memorials, in favour of Mr. HASTINGS. Mr, BURKE got hold of them, and in order to do away their effect, he desires the LORDS to *consider those who signed the Petitions, as people that are forced to mix their praises with their groans; forced to sign with their hands*

that

that had been in torture; while yet warm with the thumb-screws upon them, forced to sign his praises; and that will, I hope, give your Lordships a full and satisfactory proof of the miseries of these poor people. You have often heard me express myself with much indignation against all Orators, from DEMOSTHENES down to the present moment. The more I read, the more I hear of what is called Eloquence and Oratory, the more I detest and despise it. Could Mr. BURKE possibly believe what he said, or did he expect their LORDSHIPS to believe what he said, or was it only a figure to divert the Ladies? I dare say there was not one man who signed the Petitions, that ever wore a thumb-screw in his life; but if they had, how could Mr. HASTINGS in England, or his friends in India (if he has any there), force the injured Natives to sign Petitions in favour of the accused, while Lord CORNWALLIS is Governor General? Mr. HASTINGS had no interest in India among the Natives, at the time the Petitions were signed.---Is not this enough to destroy the credit of every thing Mr. BURKE has said upon the business of the Im-

Impeachment? It may be said, that Orators must be allowed the privilege of amplification; but how shall the hearer know what deductions he ought to make on the credit side, unless the speaker were to furnish him with a table of ratios and discounts. You may, perhaps, think this a ludicrous idea, but I am really very serious. It is very necessary that every accuser should be prevented from aggravating, or that he should give in his scale of aggravations, otherwise the criminality of the accused must vary according to the different degrees of elocution in the accusers. To illustrate this, the same offence which in the mouth of Mr. GREY would be brown, in the mouth of Mr. ADAM would be dark, and in the mouths of Mr. FOX, Mr. BURKE, or Mr. SHERIDAN, would be as black as charcoal.

It is necessary to premise, that when I may have occasion to speak of the *Nabob*, I mean the *Nabob* of *Bengal*, named MOBARECH UL DOWLA, and not the *Nabob* of *Oude*, who are as distinct persons as the Kings of France and Prussia: and that when I speak of

of the BEGUM, it is a Lady totally distinct from those I spoke of in my former Letters. The scene hitherto has lain in *Oude*, and the vicinity of *Oude*, which are not Provinces belonging to the Company, but to ASOPH UL DOWLA, *Subahdar* of *Oude*, though the influence of the Company was and is very great throughout his dominions. But the scene now lies in the Company's Provinces, viz. in *Bengal*, *Behar*, and *Orissa*.

I formerly explained the meaning of *Dewan* and of *Dewanny*. The former is the *Collector*, the latter the *Collection* of the Revenues. I shall not give a detail of the means whereby the Company fixed their authority in Bengal, nor carry my enquiries farther back than to the year 1757, when Lord CLIVE obtained from the EMPEROR the Dewanny of the three Provinces for the Company. It was then settled, that the EMPEROR should have a tribute of 26 lacks, and the NABOB of BENGAL 50 lacks of rupees annually. Though Lord CLIVE had thus obtained the Dewanny, the Collections were made, not in the name of the Company

pany, but in that of the Nabob, whose Deputy or Prime Minister was MAHOMED REZA CAWN.

About the year 1770 or 1771, one of the Directors received information of some misconduct in MAHOMED REZA CAWN, and a Resolution was formed to remove him from his Office, and to make a strict enquiry into his behaviour.---For this purpose, amongst others, they removed Mr. HASTINGS from his seat in the Council of Madras, and appointed him President of the Council at Bengal.---I have in the former Charges, spoken of Mr. HASTINGS by the title of Governor General, but his rank was that of President, only, untill the year 1774.--- The distinction is more nominal than essential, but I mention it to avoid confusion.

In the year 1772, Mr. HASTINGS succeeded Mr. CARTIER; and soon after he had taken possession of his Office, he deprived MAHOMED RESA CAWN of the Regency, in consequence of the express orders he had received from the Court of Directors. But as

as by that deprivation, the young Nabob, then a Minor, was left without a Guardian, it became necessary to fill up that office. But the question was, who was the most eligible: the choice fell upon MUNNEY BEGUM---This Lady, whatever she might have been by birth and parentage, was of great importance in the Country, long before the English had established their authority in India.---She was the favourite wife of the Nabob JAFFIER, who appointed her Son to be his Successor in the *Subahdary*. It is in India as it is in England, a man may raise a woman up to his own rank, though a woman cannot elevate a man. Mr. BURKE was very violent against this appointment; but the very reasons which he assigned for her ineligibility, were the very reasons which induced the President and Council to elect her, and the Court of Directors to approve their choice.

Mr. BURKE contends, that as she was a woman shut up in a Seraglio, or Zenana, she was incapable of transacting public business. So she was: but it was intended that

her Servants or Ministers should be under the influence and control of the Presidency at Calcutta. To have appointed the young Nabob's Uncle to the Office of Guardian, would have exposed the person of the Minor to great danger, and the State to many inconveniencies. Mr. HASTINGS, in a Letter to the Directors, gave so many and so very strong reasons for the choice he had made, that they expressed their satisfaction in the most decided manner.

By making it appear that this woman was wholly unqualified for the trust, Mr. BURKE endeavours at making the LORDS believe that her appointment was purchased from Mr. HASTINGS.---Whereas the true state of the case is, that it was the wish of the Directors, and the object of Mr. HASTINGS, to establish the doctrine of Passive Obedience and Non-resistance in the Nabob's Court, and not to introduce a person into authority, who might seek occasion to turn it against themselves.

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MAHOMED REZA CAWN, who, as I mentioned before, was Deputy Subahdar from 1765 to 1772, was now deprived of his office, and taken from *Morshedabad*, the seat of the Nabob's Government, to Calcutta, where he was kept for some time. In the interim, RAJAH GOURDASS, the son of NUNDCOMAR, was appointed Deputy Dewan, whilst MUNNY BEGUM had the care of the Nabob's person and household.---In the appointment of RAJAH GOURDASS, Mr. HASTINGS seems to have relied much on the abilities of his father, NUNDCOMAR, whom he endeavoured, though with very little success, to make instrumental in the discovery of the misconduct of MAHOMED REZA CAWN. This degraded Minister stood accused of causing, or increasing a famine, by the monopoly of rice, and also of various other misdemeanours. A reduction was at that time made by order of the Directors, of the annual expences of the Nabob's household, down to 16 lacks of rupees. The disbursement of this sum was under the inspection of MUNNY BEGUM, in consequence of her becoming guardian to the young Nabob's

bob's person. The alteration took place in the year 1772, at no great distance of time after Mr. HASTINGS succeeded to the Presidency of Bengal. But two years afterwards, a very great change was made in the Government of India.

By Act of Parliament, passed in 1773, and which took effect in 1774, the President and Council were done away, and a new Administration was formed, consisting of a Governor General and four Counsellors. It took the name of the *Supreme Council*, and was entrusted with much greater powers than the preceding Government had been. Mr. HASTINGS and Mr. BARWELL were the only two in the Supreme Council who had made part of the last Administration:---three Members came from England, viz. Sir JOHN CLAVERING, Mr. MONSON, and Mr. FRANCIS. They arrived in October 1774, and immediately discovered a disposition very inimical to Mr. HASTINGS. The Court of Directors had given orders to the Supreme Council to inquire diligently into the mal-practices of their Servants in India,

and

and this task the new Members zealously engaged in.---Accordingly, in March 1775, about five or six months after their arrival in India, Mr. FRANCIS introduced to the notice of the Board a long Paper from NUNDCOMAR, stating among a variety of other matter, that Mr. HASTINGS had received from himself (NUNDCOMAR) a lack of rupees, for appointing his son, RAJAH GOURDASS, to the office of Deputy Dewan, and another lack from MUNNY BEGUM, for appointing her guardian to the Minor; and also a lack and a half more from the same Lady, by way of entertainment, for the same reason. Two days after the delivery of the above-mentioned paper, Mr. MONSON moved that NUNDCOMAR should be called before the Board, and examined upon the contents of the letter he had written. Mr. HASTINGS saw through their intention, and resolved not to subject himself to a personal insult. He proposed to his colleagues to form themselves into a Committee, and to examine his accuser as much as they chose; declaring at the same time, that he would not degrade himself by appearing

as

as a criminal, where it was his right to preside. Though this would have answered every purpose of investigation, had that been their only object, yet the majority rejected the proposition. By the majority I mean Sir JOHN CLAVERING, Mr. MONSON, and Mr. FRANCIS. who upon most questions divided against Mr. HASTINGS and Mr. BARWELL. I never yet heard any satisfactory reason assigned for not examining NUNDCOMAR in a Committee. It is probable they may have had many reasons, but the only two that suggest themselves to my mind, are these: First, to mortify the Governor General, and to convince all Indostan of their own superiority. And secondly, to strengthen NUNDCOMAR's evidence, by their observations upon Mr. HASTINGS's conduct during the examination. These are reasons of my own suggestion, I by no means vouch for the truth of them. They could hardly expect that Mr. HASTINGS would submit to be insulted by NUNDCOMAR; and I believe there is no man of common spirit but will approve of Mr. HASTINGS's conduct in this refusal.

As

As the majority persisted in calling in the accuser, the Governor General dissolved the Council, but they voted the dissolution illegal, and continued to sit. They called NUNDCOMAR, and examined him, so that they obtained all the information they could have had, had Mr. HASTINGS sat by all the time of the examination.

About this time disputes ran very high among the Gentlemen of the Supreme Council, and General CLAVERING carried it to a great length indeed. The Board, that is, the majority, ordered a confidential servant of Mr. HASTINGS, named *Cantoo Baboo*, to attend them. He consulted his Master, who bade him not go: he was summoned again, and went. General CLAVERING finding that his disobedience was in consequence of the prohibition of the Governor General, moved to have him put in the stocks. *Cantoo Baboo* was, by his office, the first native in Calcutta, and of so high a Cast as would have rendered the punishment worse than death.---The General defended the propriety of the punishment, by saying that Mr,

Mr. HASTINGS had ordered some of the lowest wretches in the country to be put in stocks for acts of uncleanliness and of public nuisance. The General must have known, that the blame was due to the Master, and not to the Servant; and that such a punishment to such a man, was equally as bad as it would have been to have taken a General Officer, and flogged him in the front of his regiment. I mention this, not as pertinent to this Charge, but merely to shew the acrimony of party at that time, and as a strong proof, that their principal object was to humble and mortify Mr. HASTINGS. Nothing but that determination could have urged General CLAVERING to think of so severe a punishment for so trifling an offence. Mr. HASTINGS acted in this case as he did in the former; for he declared his resolution to protect his servant at the hazard of his life. One of the Members, not quite so violent as Sir JOHN CLAVERING, moved to adjourn, and I believe there it ended.

To return to the Narrative---In the May following (1775), the Board deputed Mr. GORING

GORING to examine the disbursements of various sums in several departments at *Morshedabad*, and to deprive MUNNY BEGUM of her office and authority: I mean that which had been conferred on her in the year 1772, by the former Administration. Among other powers granted to Mr. GORING by the majority, was that of removing the BEGUM from her Zenana, and placing her in some other house in the neighbourhood. There is an expression in one of that Gentleman's letters, which is of so curious a nature, that though it is foreign to my Narrative, I cannot pass it over. It seems that the BEGUM hinted to him, that there were Courts of Justice at Calcutta to redress the injured; upon which he proposes to the Board, that the confinement of the BEGUM'S servants should be done in the name of the Nabob; the intention of which was to avoid the danger of being made personally answerable for the oppressions he was about to commit.

I must here recall to your mind the Zenana doctrine preached up by Mr. SHERIDAN, in the former article. It was then

sacrilege to touch, nay to look into the Zenana of a woman of rank. That may be the opinion of Mr. SHERIDAN now, and also of Mr. FRANCIS, but it could not have been the opinion of the latter, when he entrusted a young man with an absolute power over the person of a Lady of the first rank in Bengal. With this power in his hands, and by threatening the BEGUM to make use of it, he had the mind of the BEGUM perfectly under control; it was not putting her person on the wheel, but it was putting her mind on the rack. By these and such like means, Mr. GORING prevailed on the BEGUM to de-declare that she had expended a lack and a half of rupees on Mr. HASTINGS's entertainment, while he was at *Morshedabad*. Whether Mr. HASTINGS acknowledges the whole, or any part of this sum, I know not: for that we must wait till we hear his defence. It is, however, the custom of the country, when one Potentate visits another, to defray the expence of his visit; and had the Nabob visited Mr. HASTINGS at Calcutta, an expence would have fallen on the Company. It is a long established custom; and this trans-

transaction was prior to the Act of 1773, which prohibits the receipt of *Presents*.

I think I have now stated all that is necessary to be known by those who are not ultimately to decide upon this question. The Charge is, that Mr. HASTINGS received three lacks and a half of rupees, for the appointment of MUNNY BEGUM and RAJAH GOURDASS, to their several offices. The allegations are supported by the extorted sayings of RAJAH GOURDASS, the voluntary accusation of NUNDCOMAR, and as far as one and a half lack, by the extorted word of MUNNY BEGUM, who says, that while Mr. HASTINGS was at *Morshedabad*, he received two thousand rupees a day, according to the established custom, in lieu of provisions; but beyond that, she had not given a single cowry.

But the greater part of this evidence, loose and vague as it is, was held by the Judges of so inadmissible a nature, that the MANAGERS could not prevail on the Court to let them read it. Mr. HASTINGS's defence

is not yet given in, so I cannot take upon me to say what is proved and what is not. What I have already stated, is the substance of all that could be offered in evidence, even if the Prosecutors were allowed to read every thing.

Mr. BURKE, in the course of bringing forward this Article, laid great stress upon the declaration of NUNDCOMAR, and laboured hard to infer guilt from Mr. HASTINGS's refusal to confront his accuser. He imputes that conduct to fear, and consciousness of guilt, which other people impute to a manly spirit and just sense of his own dignity.

However, as the execution of this man formerly made a great noise in England, and as it furnished matter for an intended Impeachment of the Chief Justice who tried him, I will give a brief account of this extraordinary character---In the time of MEER JAFFIER, he was Deputy Subahdar, or Prime Minister. After the death of the former, MAHOMED REZA CAWN succeeded to that appoint-

appointment. It is very natural to suppose, that NUNDCOMAR must and would resent his degradation. When he heard that Mr. HASTINGS was about to succeed to the Chair of Bengal in 1771, or in the beginning of 1772, he sent Letters to him at Madras, in the names of YTRAM UL DOWLA, the Nabob's Uncle, and the MUNNY BEGUM. The Letters were filled with invectives against MAHOMED REZA CAWN, and recommendation of himself. Mr. HASTINGS afterwards found that MUNNY BEGUM had no knowledge of these Letters, and that they were a forgery of NUNDCOMAR's. He had been convicted also of making false accusations concerning the receipt of Presents in the time of Lord CLIVE's government. It may be asked, why did Mr. HASTINGS employ a man of so infamous a character? The answer is, that he gave up his own will to the commands of the Court of Directors, who thought that NUNDCOMAR's having filled the office himself in the time of MEER JAFFIER, would qualify him for the discovery of the mal-practices of his successor. Their hopes lay in the active malignity, as they express

express it, of this man. They expected he would bring to light the embezzlement of very large sums, and therefore enjoined Mr. HASTINGS to make use of him in that way. The court of Directors were disappointed, for after a full investigation, MAHOMED REZA CAWN was acquitted, and NUNDCOMAR imputed his failure to Mr. HASTINGS's not supporting him, as he wished. But the powers which he wanted, were such as could not be granted in any State. His hopes of succeeding to wealth and honour being thus blasted, NUNDCOMAR turned his thoughts to revenge, and the disposition of the majority towards Mr. HASTINGS afforded him an early opportunity. Here you perperceive the origin of this accusation against Mr. HASTINGS, for bribery.

In the course of the Trial, Mr. BURKE declared, that if Mr. HASTINGS attempted to invalidate the testimony of NUNDCOMAR, by saying that he was of infamous character and hanged for forgery, he would prove that he was hanged by the Chief Justice, to screen Mr. HASTINGS from the accusations brought

brought against him for bribery. These are not the precise words of Mr. BURKE, but they are the purport of what he said. A charge of this kind had been brought against the Chief Justice of Bengal, in the preceding Session of Parliament, and rejected. It is true, the majority for rejecting the Charge was not great.

Mr. HASTINGS feeling himself much injured by Mr. BURKE's saying at the bar of the Lords, in his delegated character of first Manager for the HOUSE of COMMONS, that he had murdered NUNDCOMAR, through the medium of the Chief Justice, petitioned the HOUSE of COMMONS, to make it an article of charge against him, in order that he might have an opportuniiy of publickly refuting what he thought the grossest of calumnies. This petition reduced the HOUSE to a very awkward situation. It was impossible to grant the prayer of the Petition, without falling into the greatest contradictions. How could they say in an additional article, that Mr. HASTINGS had suborned the Chief Justice, when they had pre-

previously said that the Chief Justice was not suborned by Mr. HASTINGS. The consequence was, that the COMMONS were under the necessity of disavowing their first Manager. But as Mr. BURKE and others of his party, still persist in saying, that though the COMMONS have decided otherwise, they shall always maintain their former opinions, I shall digress a little farther, and state in as few words as possible what I take to be the real fact. In doing this, I shall follow principally the evidence of Mr. FARRER, who was NUNDCOMAR's Advocate during his trial.

The enemies of Mr. HASTINGS and Sir ELIJAH IMPEY, wishing to have it thought that the accusation for Forgery sprung up against NUNDCOMAR from the accusation he had made against Mr. HASTINGS for receiving Presents, carefully suppress one very material circumstance. Mr. FARRER arrived in Calcutta at or before the formation of the Supreme Court of Judicature, and in about a month after his arrival, Mr. DRIVER, an Attorney, informed him that a suit had

had been instituted against NUNDCOMAR in the Mayor's Court, but as there was a Forgery in the case, he, Mr. DRIVER, had advised his Client to institute a criminal prosecution against NUNDCOMAR, and that his Client had agreed to the advice. There was however an obstacle in their way: the Original Papers, without which the Forgery could not be established, were lodged in the Mayor's Court, and though the Court were willing to grant copies, the originals could not be obtained.

Mr. DRIVER added, that the Mayor's Court was not so free from influence as could be wished, when proceeding against such a man as NUNDCOMAR; but now, as a more independent Court was established, he should advise his Client to apply again for the original Papers. Mr. FARRER, who was then on the prosecution side, moved the Court for the Papers, six weeks before NUNDCOMAR's accusation was produced at the Board by Mr. FRANCIS. It appears not to have been an easy matter to get possession of the original Papers: for I

observe Mr. FARRER was obliged to repeat his application twice, before he obtained them. Soon after this, NUNDCOMAR was committed to prison, and the prosecution began.

I have been more particular in stating this circumstance, because it proves beyond the possibility of contradiction, that the idea of trying him for Forgery, originated with Mr. DRIVER sometime before Sir ELIJAH IMPEY arrived in Bengal. The Trial went on in the regular way, and NUNDCOMAR was convicted, to the satisfaction of every body. Mr. FARRER, in his evidence given before the HOUSE of COMMONS, does not seem to express a doubt of his guilt. On the contrary, it is evident that NUNDCOMAR endeavoured to prove his innocence by the most glaring perjuries, and his witnesses were prosecuted by order of the Court, It is true, the Forgery had been committed six years or more, before the prosecution was undertaken, but there are many good reasons for its nor being done sooner. It was a case between an

Executor

Executor and a Debtor, in which the latter set up a forged Bond or Note against the claim of the former. The dispute was referred to a Native Court of Justice, and thence to arbitration, about five months before the establishment of the Supreme Court of Judicature at Bengal.

During the proceedings in the Native Court, NUNDCOMAR was offered this alternative, either to refer the dispute to arbitration, or to swear to the truth of his set-off. He declined both, but at length accepted the former.---There is nothing in the whole proceeding which appears to me objectionable, except the not respiting the convict till his MAJESTY's pleasure were known. Sir ELIJAH IMPEY, in his defence, has demonstrated the legality of all he did; he has also fully shewn, that none of those reasons, which usually induce Judges to recommend a convict to mercy, had any existence in the case of NUNDCOMAR; but there is one circumstance which has escaped the Chief Justice, and which is applicable only to a convict in that country---Forgery is not

not a capital offence by the laws of Indostan, and it was made capital in England to answer commercial purposes only.---- There is nothing but rigid necessity that can justify mankind in depriving their fellow creatures of life. It is sacrificing a few for the good of a great many. In England it might be wrong to pardon Forgeries, because it might encourage offences of that nature, but the reasons which demand the execution of a penal statute in this country, do not demand it in that. Every Judge must feel, when he enforces a penalty or sentence beyond what the nature of the offence seems to require. Forgery is certainly in its own nature a very heinous offence, but not more so than any other fraud or deception which deprives a man of his just property; and yet one man may cheat me of my fortune, and no law will punish him for it, whilst another, who by forging deprives me of a few pounds, forfeits his life for it.

It is nothing but the necessity of supporting Commerce, that could have induced our Le-

Legislature to make one species of fraud so much more positively criminal than another. I think Sir ELIJAH IMPEY should have respited NUNDCOMAR upon this ground; but there are other reasons why he might have respited execution. But in what I have said, I give my own opinion only. I may be singular, and therefore do not wish any person to adopt it.

The *Attorney-General*, the present LORD CHANCELLOR, in 1776, gave an opinion to the East India Company, on the subject of commencing a Prosecution against Mr. HASTINGS for the lack and a half of rupees, supposed to be received from MUNNY BEGUM.---He says, "NUNDCOMAR's evidence goes for nothing;" and why, because after conviction, his oath cannot be taken. To Mr. HASTINGS it could be of no consequence whether the man was hanged or not. I never have been able to account for the desertion of NUNDCOMAR by Messrs. CLAVERING, MONSON, and FRANCIS. Had they applied to Sir ELIJAH IMPEY, I believe he would have respited him; but General CLAUERING, who

who received a Letter from NUNDCOMAR before his execution, would not even open it till after he was hanged.

I have now gone through what Mr. BURKE calls the *concealed Presents*. There were two other allegations of the same nature, which I understand are abandoned, but why, I do not know. Perhaps they are thought untenable.

It was my intention to have treated of the *avowed Presents*, in the same manner I have done with respect to the former. But upon looking over the Charges, I find a want of documents. As far as I have gone, I have drawn by much the greater part of my information from the evidence, written and oral, adduced by the MANAGERS, in support of the Prosecution.

This part, which concerns the *avowed Presents*, is expected to come on at the Meeting of Parliament, and has not yet been much entered into, so that I find it impossible to particularize, without the danger of mis-stating some part or other, a thing I most

most carefully wish to avoid. I therefore must content myself with saying, that it appears by the Charges, that Mr. HASTINGS received for the use of the Company, above 200,000l. at different times, from the natives of India. I also understand from other channels of information, that above 40,000l. of the above sum was received, entered, and expended in such a way, as to excite suspicion of Mr. HASTINGS having had an intention of keeping the money for his own use. I cannot judge by what means the suspicion will be maintained or supported, if what I hear be true, that the MANAGERS have no evidence except what they draw from Mr. HASTINGS's own statement, and that of his Attorney, the Accountant-General. Supposing these to be their only proofs, I do not see how guilt can be inferred from contradictions in accounts, particularly when it is considered that accounts in India are mostly kept by the Natives, and that in fitting the Hindoo dates and Mahomedan dates to the English, very great errors must unavoidably arise. Instead of drawing an argument in proof of guilt from the contradiction

diction of accounts, I should think it much more fair to conclude, that such contradictions must be a proof of innocence. For whoever is possessed of all the information, and intend to sdeceive, will never fail to make up such an account as will not contradict and expose itself.

There is one argument which struck me upon slightly casting my eye over the statement of the Presents, as made out by the Accountant-General, which is unanswerable. I mean that those Presents upon which the suspicion is cast, were received whilst Mr. FRANCIS was in India, and those which were received afterwards, were carried to the public accounts without delay, and without any circuitous proceeding. The plain inference to be drawn from this, is, that Mr. HASTINGS was in the time of Mr. FRANCIS obliged to make use of indirect means to carry on the business of Government. He often wanted to expend sums on secret service, which he had every reason to believe Mr. FRANCIS would oppose. But no sooner was that Gentleman gone from Bengal, than Mr.

Mr. HASTINGS, finding himself no longer under the necessity of taking indirect means, acted more openly and unequivocally. Now the fair way of reasoning is, to say, that if Mr. HASTINGS wished to keep the Presents for his own use, he had a better opportunity of doing it after Mr. FRANCIS was gone than he had before. There was no active spy to investigate his conduct. All the apparently irreconcileable parts of Mr. HASTINGS's administration, may, as I have more than once said, be imputed to the opposition he met with in Council. He concealed the receipt of a sum of money, and he sent a sum of nearly the same amount to purchase the forbearance of a Mahratta army. Both these measures Mr. FRANCIS would probably have condemned, at least Mr. HASTINGS feared he would. It is impossible for human ingenuity to account for Mr. HASTINGS's concealing many transactions more in the time of Mr. FRANCIS than afterwards, upon any other principle than that general aversion he had to litigate and fight with his colleague every inch of ground he advanced in the service of his employers. I do take

this argument to be a full answer to all that can be inferred from the inaccuracy of accounts, for I am certain no man that ever was in India, will deny, that if *money* was the object of Mr. HASTINGS, the best time for him to effect it, was after the departure of Mr. FRANCIS.—Whereas we find, that when he was under no restraint, every Present was brought publicly to public account. It may be said, this is arguing from supposition only; but surely when the intentions of a man are inferred and deduced from his acts in one instance, it is equally fair to do the same in another.

It is uselesss for me to argue this point any farther. It already carries conviction to my mind, and so it must remain till I hear something against my argument, of which I can at present form no idea.

It is true, some of the bonds were received after Mr. FRANCIS's departure, but the money was received before. Add to which, the coalition between Mr. HASTINGS and Mr. WHELER was not strengthened by experienced

perienced confidence and support at the time of taking the bonds.

I have now gone through all the Charges that are yet brought forward, and as there is a probability of there being already enough in hand to last till the Dissolution of Parliament, I shall not meddle with the remainder.

One observation you must have made, namely, that all the Charges except that made by NUNDCOMAR 15 years ago, are of a political nature, and whether they are held criminal or innocent by the LORDS, it is evident that they originated from that defect in the Constitution of the Government in India which has pointed out no legal means of providing for extraordinary occasions. A question naturally arises----How comes it that Mr. BURKE and his friends discover so much criminality in these Proceedings? It is impossible to answer that question, unless you impute motives which I would not impute to any man, by any other supposition than this, namely, that Mr. BURKE drawing

drawing his ideas of right and wrong from the observations he has made in this country, cannot admit any measure to be right which has not the sanction of the British Parliament. And yet this supposition will not totally answer the question, because we well know, that Mr. BURKE has both the capacity and means to acquire as good a knowlege of the customs and manners of India as any man could possibly have, without being on the spot.

I am surprised much less at the ill reasoning of the bulk of mankind on this question, than I am at the arguments adduced by some of the MANAGERS.

They all know as well, or much better than I do, the impossibility of carrying on a war without money. They know also, that no State can raise the Supplies for a war, particularly of a complicated one, within the year. And they know also, that out of five ways adopted by the Government in India to raise Extraordinary Supplies, three of them are made matter of Impeachmen .

ment. One of them was in one instance reprobated by the Directors, and another was so managed as to give great dissatisfaction for a time, to those who were principally concerned.

I believe no human invention could have struck out a sixth method of raising money in India during the war. Government borrowed as long as any one would lend, and they opened their Treasury for unlimited remittances; the last of which was severely condemned, and the lenders hastily ordered to take the money they had advanced back by instalments. They taxed CHEYT SING, and Mr. HASTINGS is impeached for it. The NABOB of OUDE was urged to resume the treasure left by his father, and withheld from him by his mother; and Mr. HASTINGS is impeached for it. The Natives made presents to Mr. HASTINGS; he received them, and expended them in the Company's Service, and he is impeached for it. Now I would put this case very seriously to the feelings, and also the understanding of every man who will take the trouble to read what

I have

I have written.---Every man must take this into very deep consideration before he can with safety take upon him to judge of the merit or demerit of Mr. HASTINGS. Necessity is the only thing that can legalize or justify taxation in any State: if it can justify taxation in one State, it can in another. But there is something peculiar in Mr. HASTINGS's case; his Accusers will neither let him raise money by taxation, nor voluntary donation. He ought not to have received money from the NABOB of OUDE, because he was poor. Yet the Company was known to be much poorer. But if poverty was a good reason why a person should not contribute to the aid of a sinking, or even of a rising State, it might be pleaded by many people, very effectually and justly, against the payment of taxes in this country.

Mr. PITT inveighed for an hour against the disproportion between the sum CHEYT SING should have paid, and the sum Mr. HASTINGS proposed finding him. It was in the ratio of ten to one; and yet Mr. PITT does not scruple to bring in an Act which

fines

fines a person for evading the duty upon a hat to the amount of three pence, in the large sum of 10l. The fine in this case is 800 to 1; but even upon a good hat, where the duty is 2s. the fine is in the proportion of 100 to 1. But almost all our Penal Statutes lay on a penalty in a ratio much higher than Mr. HASTINGS ever proposed fining CHEYT SING.

Before I take leave of this subject, I must take notice of something which formerly fell from Lord MULGRAVE:---he said that ignorance was a *shabby excuse*, and that it was of little avail in Mr. HASTINGS to say that he misunderstood the Act of Parliament, and that he conceived the intention of the Act to be the restriction of Servants and not of the Company, with respect to the receiving of Presents. Possibly Mr. HASTINGS may be wrong in his construction of the Clause, though I much doubt it; but this I can safely affirm, that Lord MULGRAVE's assertion is much less defensible than Mr. HASTINGS's construction of the Act in question.

Having

Having the Statute now before me, I will quote the Clause at length, to enable you and every one who reads this Letter, to judge how severely the words are taken against Mr. HASTINGS, in order to make him criminal,

" And be it further enacted by the authority aforesaid, That from and after the first day of August, one thousand seven hundred and seventy-four, no person holding or exercising any civil or military office under the Crown, or the said United Company, in the East Indies, shall accept, receive, or take, directly or indirectly, by himself, or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian Princes or Powers, or their Ministers or Agents (or any of the Natives of Asia), any present, gift, donation, gratuity, or reward, pecuniary or otherwise, upon any account, or on any pretence whatsoever; or any promise or engagement for any present, gift, donation, gratuity, or reward: And if any person, holding or exercising any such civil or military office, shall be

be guilty of any such offence, and shall be thereof legally convicted in such Supreme Court at Calcutta, or in the Mayor's Court in any other of the said United Company's settlements where such offence shall have been committed; every such person, so convicted, shall forfeit double the value of such present, gift, donation, gratuity, or reward, so taken and received; one moiety of which forfeiture shall be to the said United Company, and the other moiety to him or them who shall inform or prosecute for the same; and also shall and may be sent to England, by the order of the Governor and Council of the presidency or settlement where the offender shall be convicted, unless such person so convicted shall give sufficient security to remove him or themselves within twelve months after such conviction.

"And it is hereby further enacted by the authority aforesaid, That every such present, gift, gratuity, donation, or reward, accepted, taken, or received, and all such dealing or transaction, by way of traffick or

commerce, of any kind whatsoever, carried on contrary to the true intent and meaning of this Act, shall be deemed and construed to have been received, taken, had, and done, to and for the sole use of the said United Company; and that the said United Company, upon waving all penalties and forfeitures, shall and may sue and prosecute for the recovery of the same, or the full value of such present or gift, or the profits of such trade respectively, together with interest, at the rate of five pounds per centum per annum, from the time of such present, gift, gratuity, donation, or reward, being received, or of such dealing or transaction, by way of traffick or commerce, as aforesaid, by action, for money had and received to the use of the said Company."

To bring the criminating part of the Clause into a narrower compass, so that the different members of the sentence may be more readily connected together, I will abridge and analyze it. It will stand thus, when a little reduced:---After the 1st of August, 1774, no Servant of the King or Com-

Company, being in the East Indies, shall receive, directly or indirectly, by himself (or any other person or persons on his behalf, or for his use and benefit), from any Native of Asia, any Gift, upon any account, or upon any pretence whatsoever. Those Lawyers who contend that this Clause deprives a Governor of the power of taking Presents for the use of the Company, must in their construction, disjoin by the monosyllable *or*, all the words which I have put into a parenthesis, and then it will stand thus, No Servant, &c. shall receive by himself, directly or indirectly, from any Asiatic, any gift, upon any account, or on any pretence whatever. Taking the sentence in this way, it may be contended, that the words *on any account*, or any pretence, may exclude the Company also; that is, that no servant of the King or Company shall receive Gifts from an Asiatic, on any account, not even on account of the King or Company. Dividing the sentence in this way, a doubt may be raised, but the true meaning and intention of the Clause is discoverable by the words in the parenthesis: which

which infer, that no Servant of the King or Company shall receive a Gift from a Native through the medium of another person, for his own use and benefit; but this Clause does not say that a Servant, &c. shall not receive through the medium of another person, a Gift for the use of the Company. It only restrains this Middle-man or Agent, from receiving Gifts for the benefit of his principal, and not from receiving Gifts for the use of the Company. Mr. HASTINGS here might oppose quibble to quibble, and say, that I never saw nor received one rupee of the money. My Agents received it, it is true, but they were restrained from receiving it for my use, but not restrained from receiving it for the use of the Company. Or, in other words, I am forbid the receipt of Presents by myself, and by my Agents also for my use, but I am not forbid receiving Presents through an Agent for the Company's use. I think no man can read the above Clause, and seriously believe that it was the intention of the Legislature to take away the Company's right

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to Peeshcush, Nezer, and other customary donations, by such vague and loose words as are found in this questionable Clause.

Had such been the intention of Parliament, the Company would have opposed it, either by some of the Directors who were Members of Parliament, or by Counsel. They were in this instance silently and unobservedly deprived of a very valuable part of their Charter. But it never was understood either by the Supreme Council at Calcutta, by the Court of Directors at home, or the King's Ministers, that this Act had taken away the Company's right to Presents.

If Mr. HASTINGS was in an error, he was so in common with all others, and the mistake might have continued to this moment, had not the diligent search of his enemies brought this up against him. But supposing that Mr. HASTINGS has misunderstood the Act, to which I by no means assent, there is still another Clause in a later Act, which cures the disorder, for in the

the 24th of his present MAJESTY, there is one Clause which expressly forbids the receipt of Gifts, &c. &c. for the use of the Individual and the Company also. And another, which repeals so much of the Act above-mentioned (to wit, the 13th of GEORGE III.) as subjects any person receiving Presents to any penalty or forfeiture for so doing, provided no prosecution be commenced before the 1st of January, 1785. Surely if one Statute be strained to its utmost, or even beyond its natural and obvious meaning, against him, another ought to be construed in his favour, or at any rate, it should not be totally rejected. It does strike me as a very hard case, if a repealed Clause be revived against a man, and a living Clause not suffered to operate in his favour.

Having now laid before you the Clause from which the criminality is extracted, and shewing its obscurity was such as to lead many into error, I shall examine the validity of Lord MULGRAVE's opinion.

First,

First, I would ask him, whether any man, not a Lawyer, would construe the Act differently from what Mr. HASTINGS did? And whether he is himself at this moment clear in his opinion, that Mr. HASTINGS has mistaken the sense of the Act? But for argument's sake, I will for the present suppose he has mistaken the interpretation of the Clause; but then I must tell his Lordship, that all Writers upon Penal Laws agree in this, that every Penal Statute ought to be expressed in the most clear and intelligible language, and that to punish for the breach of such as convey an obvious meaning very different from the real and latent meaning, would be to lay snares for innocence, and to punish the subjects for the offences of the Legislators. The use of punishment is to prevent the commission of future offences; but if you punish 50 men for misunderstanding an obscure Clause in a Penal Statute, your examples will be of no use, for they never can assist the understandings of men in interpreting the next obscure Statute that may fall in their way.

Lord

Lord MULGRAVE must have drawn his argument from having heard it said, that ignorance is no excuse in criminal cases with a Court of Law. It is very true, ignorance is inadmissible, but why is it so? The reason is, that if ignorance were received as an excuse, it would be often pleaded, and in a great measure defeat the purpose of the law. It is undoubtedly a great evil to punish any man for a positive crime, unless he knew before the commission of it that it was made criminal by some Act of Parliament; but it would be a still greater evil to let the offence go unpunished, because it would be an encouragement to others, who would plead ignorance also, and defeat the operation of law in every instance. The law goes upon general principles, and makes choice of the lesser evil. But that does not apply to Impeachments, which go upon partial principles, and not general ones. The nature and use of Impeachment is to punish such offences as the Common or Statute Law will not reach. It is to preserve the Constitution safe from those whose high Offices and Stations might enable them to injure it, with-

without being amenable to Common Law proceedings. A Statesman may do his country a thousand mischiefs, without being exposed to danger from any Statute whatever. The HOUSE of COMMONS, therefore, which may be considered as the People themselves, and consequently guardians of their own rights and welfare, have a right to resent and prosecute any offence committed against the State or Nation at large. In order to establish State Criminality, it is necessary to shew that the people are injured, or likely to be injured. All public prosecutions are founded upon this principle. I believe were we to go through the History of Impeachments, we should find that they were undertaken to punish crimes which might some way or other hurt the public.

Now let us examine how the misunderstanding of this Act of Parliament can possibly affect the People of England in such a manner as to induce them to demand vindictive justice for it at the Bar of the HOUSE of PEERS. An Act of Parliament is made professedly with an intention to restrain the Company's Servants from taking Presents

from the Indians; but by the loose manner in which it was penned, it becomes a matter of doubt, whether the prohibition does not extend to the Company as well as to their Servants. In the mean time, before this doubt was suggested, the Company's chief Servant, in time of actual necessity, receives 2 or 300,000l. in presents from the Natives, for the use of his Masters.

This is the true state of the case, and I must say, and I believe every impartial man will agree with me, that if the preservation of the Company's territories in India be of advantage to the Public, the People of England are not injured by Mr. HASTINGS's receiving Presents for the use of the Company and the defence of their territories. How then must it strike every man of reflection, when he sees the People of England rise up against Mr. HASTINGS, and tell the LORDS, that we demand justice against the man for mistaking a Statute, at the same time we acknowledge that his intention was to serve us, and that he did most essentially serve us thereby. One might here ask

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the people----Is this man the enemy of his country? No: He is the friend of his country. His very mistakes were our salvation. But I hitherto have understood, that those who demand justice against an offender, always do it under an idea that they are injured, or likely to be injured by some act or other; but in this instance, you are neither injured nor likely to be injured. Why then do you demand the infliction of punishment? The only answer that could be given by the people is, that owing to the obscurity of the clause, he misunderstood the prohibition of our Legislature, and therefore we demand that the Criminal may be punished for a crime he never intended to commit.

This is a plain statement, as far as regards receiving Presents for the use of the Company; and I am firmly persuaded, that no disinterested man in this kingdom would wish to see a Governor General called to account for such an offence. It is true, if any informer had sued Mr. HASTINGS within the limited time, for the penalty of double the value, as stated in the Clause, and if the Court

Court had been of opinion that the words of the Act excluded the receiving Presents for the use of the Company, the Plaintiff must have recovered. But the reason is, that the Judges have no discretionary power to refuse Judgment upon a Penal Statute, when demanded, however much they may feel for the prosecuted party. But the case is widely different with the Member of Parliament, who is called upon to vote for or against an Impeachment for the breach of a Penal Statute. The Member has a Court of Conscience in his own bosom, and can put to himself this question---who is most in fault, the person who pens an obscure sentence, or the person who misunderstands it? ----I would ask Lord MULGRAVE if there can be two answers given to that question. And I would beg of him to consider the distinction between the Judge who is bound to enforce a Penal Statute according to the Letter without adverting to the Spirit, and the Prosecutor who has the liberty of conscience to enjoin or restrain the prosecution. Had Mr. HASTINGS said, I did not know of, or I forgot the Act of Parliament,

Parliament, it would have been, as his Lordship observed, a *shabby excuse*; but when we consider that the true explication of an obscure Clause can only be obtained from the opinion of the Judges, or a new Declaratory Law, we must allow, that to a person in India, the means of understanding and knowledge were not within his reach; and that ignorance of a fault was an unavoidable, and consequently a pardonable one. I have bestowed more pains in examining this question than you perhaps may think necessary; but it is owing to a wish I entertain of preventing an unfair impression being made by the opinion of Lord MULGRAVE, who in most cases is certainly a very respectable authority. But in this I differ with him *toto cælo*. You are, however, to observe, that what I have said, has nothing to do with the Impeachment in this article, when it is put on the other ground, namely, that Mr. HASTINGS actually received the Presents for his own use, and gave them up through fear of detection. If the MANAGERS can establish that clearly and demonstratively,

demonstratively, I suppose there will not be two opinions as to the guilt.

Much has been said on the length of the present trial. It certainly is unprecedented in the Annals of England. It is, perhaps, the first instance of the kind that ever happened in the known world. Sir WALTER RALEIGH's was a hard case; but he was not longer under trial than others had been before him. But in all diseases, the first thing to be considered is the nature of the malady---whether it admits of a remedy, and whether the remedy is not worse than the disease? Mr. HASTINGS's friends say, that the Articles are numerous; that the Items or Allegations are nearly 2000; that the expence is enormous, beyond the power of any fortune to support; that two sessions are already passed away in hearing the evidence in proof of two Articles only, and part of another; that, by analogy, it will take sixteen years to go through the Prosecution; and that two or three years more may be reasonably allowed for the Defence and

and Replication. Hence they say, it is evident, that should Mr. HASTINGS's life be protracted to seventy, he cannot see the end of the Trial. They enumerate many more hardships than what I have mentioned; but as you must have seen them stated in the Newspapers, I shall pass them by. But after all, I must confess that it is very difficult, in the present stage of the business, to point out a remedy. It is an evil or injury beyond the reach of the law to redress. Our ancestors, in framing the Constitution, have taken every possible precaution to guard against the overbearing power of any single branch of the Legislature; but should they all unite, or one part passively observe the oppression of an individual by another, there is no remedy; nor is it in human wisdom to provide one.

The COMMONS have, by the Constitution, an undoubted right to impeach whomever, and for whatever they please. It is fit they should have it; for, as I have said before, every State must have a discretionary power to punish undefined offences, to provide against

against future evils, and to remedy those which have happened. It must have a power of punishing by a kind of *ex post facto law*; but then it certainly ought to be exerted against those actions only which are in their own nature criminal, or in some way or other prejudicial to the State. And whilst the discretionary power is confined to this, there can be no harm in it, for there is a kind of obligation on every public man, to act for the benefit of the State that employs him. A failure of duty is justly punishable. But it is also incumbent on those to whom the people have delegated the power of punishing, to use it with moderation, and not exceed the bounds of natural justice. The thing complained of in this instance is, that the COMMONS, by voting such a number of Articles, and loading them with so many Allegations have inflicted a punishment more severe than would possibly have been sentenced by the LORDS, had the Defendant pleaded Guilty at once. Certainly, as the event turns out, it would have been more prudent in Mr. HASTINGS to have pleaded guilty, when first

first called upon to answer; but who then could foresee the procrastination which has since happened. As matters now stand, Mr. HASTINGS has nothing to hope but from the mercy of the LORDS, and the MINISTRY. It is in the power of the latter to shorten or lengthen the Session of Parliament, (I mean with the consent of the KING;) and it is in the power of the former to appoint the days of sitting, and to make them more numerous than heretofore.

This appears to me as the only way of relieving Mr. HASTINGS; and if the LORDS will not take this part, there is no remedy upon earth. It is true, the Parliament must of course, in a certain space of time, be dissolved; but as many of the same Members may probably be returned again, the Impeachment may of course be renewed, and continue on for another Session. It will never be in the power of any other branch of the Legislature to say to the COMMONS, We will restrict you as to the number of Articles you are to exhibit against the Prisoner, or to fix the *ne plus ultra* as to

matter or time. The COMMONS are in possession of a valuable and necessary privilege, and they ought not to part with it, nor suffer it to be entrenched on in the slightest degree. They have the same power over a State Officer, as a rich man has over a poor neighbour. The latter may bring action after action against the poor man, till he has ruined him by expences; and though the poor man may have every verdict in his favour, yet the Courts of Justice can never prevent the rich man from renewing the old suit, or striking out some other equally ruinous and oppressive. These are evils to which all classes of people are liable; and it is impossible to contrive laws to prevent them totally. I have heard many disinterested people exclaim, not against this privilege of the HOUSE of COMMONS, but against the exercise of it to too great an extent against an individual. I have heard it repeatedly affirmed, and Major SCOTT has more than once said it in the HOUSE of COMMONS, as well as in his Publications, that many of the articles passed with little examination. In short that they were voted

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in the lump. Supposing this to be true, and I have never yet heard it contradicted, it amounted to little less than an Impeachment for life; and I have heard it called the giving of him up as a victim to the MANAGERS.

The former part of the last sentence I firmly believe, and the latter I have heard strongly maintained in private companies, by those who were not the adherents of Mr. HASTINGS. This is a length to which I do not go, for I consider the greater part of the House as deceived in their expectations. They had not made themselves sufficiently acquainted with the subject, to know what an immense mass of evidence, written and oral, must be brought to sustain such a number of allegations. Neither did they foresee, that their MANAGERS would take four or five days to open half an Article, and as many more to sum up the evidence upon it. I even doubt much if Mr. BURKE himself foresaw the extent of the Trial; yet if any one had the means of foreknowledge, he certainly was the man. He knew, that

with

with the closest application; it cost him some years to understand India business, and it was but reasonable to suppose, that it would cost him as many, if not more, to make the LORDS understand it. I say more years, because the LORDS would apply only a few hours in a day, and but a few days in the year, when compared with the time spent in the acquisition of knowledge by Mr. BURKE. Add to which, much delay might naturally be expected from the Counsel objecting to evidence. Hence one may reasonably conclude, that Mr. BURKE knew at the time, that he had carved out work for many years.

I have heard the procrastination on the part of a Chief Manager imputed to interested motives, but I am unwilling to suspect him of that, without stronger grounds. But certain it is, that much time has been very unnecessarily consumed in long Speeches and vehement Declamation. This kind of Oratory serves very well to amuse the Audience in the Gallery, who occasionally attend as a matter of amusement;

ment; but to the LORDS, who attend as a matter of duty, it must be irksome and disgusting in the extreme, At the same time it is impossible to stop or prevent these repetitions, if the MANAGERS are determined to persevere in the use of them. They claim the privilege of being heard, and it cannot be denied them.

The more I consider the situation of the Judges, the Accusers, and the Defendant, the more difficulties present themselves to my mind. The COMMONS have voted, and pledged themselves to substantiate a mass of allegations that must employ them for many Sessions; and they cannot with honour withdraw them. They cannot hasten their MANAGERS without giving them offence, and perhaps provoke them to resignation. And the MANAGERS, if we may judge from the length of their Speeches, &c. shew very little desire to bring the trial to conclusion.

There is at this time an information filed against a Public Paper, for calling this prosecution

prosecution a shameful business. It is undoubtedly a very improper term to be applied to any Act of either Branch of our Legislature, but it must be admitted by every impartial man in the kingdom, that the delay is and must be extremely oppressive; and it were much to be wished, that both Houses of Parliament would unite in bringing the business to a speedy conclusion. The LORDS might contribute their share by sitting often, and with as little interruption as possible; and the COMMONS might contribute their share, by advising their MANAGERS to make use of as little delay as possible. Without the concurrence of both Houses in this joint endeavour, the prospect for the Defendant is dreary indeed; and it would be an act of mercy to end the Trial by a Bill of Attainder at once.

The friends of Mr. HASTINGS complain loudly against the Prosecutors for withholding, or rather for not bringing forward the evidence of certain Gentlemen, which would have made in favour of the Defendant. I hardly know what to say upon this point, nor

nor do I well understand the practice of other Courts in like cases. I have indeed heard it said, that Lawyers hold it dishonourable in a Counsel for the Prosecution to withhold evidence, which in the course of his enquiries he has found favourable to the person accused. Whether this be Law, or only a point of honour, I do not know; but in reading over the Speeches of the CHIEF MANAGERS, I took notice that they bound themselves to the observance of more candour than is usually observed by Advocates in ordinary Prosecutions. They said they would take no advantage in aggravating the Charge, nor state any thing against him, which they could not, and would not establish against him by competent evidence. They considered themselves as the Representatives of the COMMONS of GREAT BRITAIN, as the Advocates for Truth, and not as Advocates bound to maintain a Criminal Prosecution against it. After such a declaration from Mr. BURKE, one would not have expected the story of DEBY SING; a story so artfully introduced, as to do the Defendant more harm than all the twenty

Articles

Articles put together, in the opinion of mankind: and at the same time to preclude him from the benefit of calling evidence to refute it. Whether this really was an ingenious contrivance of a CHIEF MANAGER, or whether he introduced it without foreseeing the effect, I know not; but there never were two things more at variance with each other than this Narrative, and the declarations I have just quoted from their Speeches. I do not find fault with Mr. BURKE's bringing this History before the Bar; but it is the manner in which he did it that I condemn. He bespoke, and certainly gained credit by his professions, and promise of candour; and then introduced criminal matter, which he knew must make a very deep impression; taking care at the same time to deprive the accused of the means of effacing it. But this is not all, for in the very Narrative of which I am speaking, the evidence of Mr. ANDERSON was suppressed; which would, if stated, have totally destroyed all the effect wished to be produced. Were I the Advocate of Mr. HASTINGS, and were I to write with the

the decided intention of exposing the contradictions in the Speeches, Declarations, and Doctrine of the MANAGERS, I could expose a picture that would be very unpleasing to them, and disgusting to the Public.

The great evil which in my opinion is most likely to affect Mr. HASTINGS, by the MANAGERS neglecting to call certain Gentlemen as Evidence, is Death. Some are already dead, and many more will be so by the common chance of mortality, long before Mr. HASTINGS will have an opportunity of calling them. This also is a misfortune for which I see no remedy, but in the honour and justice of the HOUSE of COMMONS.

There is another thing much complained of by Mr. HASTINGS's friends: it is the superiority which the MANAGERS claim over the Defendant's Counsel.---They say they are clothed in the robes of Magistracy.---If this be the Law of the Land, if they really were so cloathed, a Trial would

be a mere farce or mockery. It is the part of a Magistrate to command, and not solicit. They might in their Magisterial capacity, give the Law, and not receive it. The Gentleman who threw out this doctrine, would be very unwilling to allow it, should the day ever come when he might see himself or his friend at the Bar in Westminster-Hall. He would again become the Advocate for the Rights of the People, against tyranny and oppression. I look upon the broaching of this Doctrine in Westminster-Hall as done at random, or by way of experiment, something like the PRINCE's Right to the Regency, set up by Mr. FOX and Lord LOUGHBOROUGH.

I shall now conclude with making a few general observations upon the probable injury which individuals, who incur the displeasure of a HOUSE of COMMONS, may hereafter receive from this precedent. Every body knows, that all popular assemblies are very liable to divide into parties; that oppo-

position excites animosity, and that men become more and more heated by their own declamations, as well as by those of others. This prosecution has pointed out the way, and furnished a precedent for oppressing an object of resentment without a sentence or judgment. A HOUSE of COMMONS alone can do more towards punishing an individual, whether innocent or guilty, in many cases, than could be done by the severest sentence. It requires nothing more than the voting of an immense mass of allegations, to fix the accused to the Bar for the remainder of his life. This certainly is the first instance of the kind; but it may become general. Every accuser wishes to take all the advantages he can, if we may judge from practice and not professions. And as future accusers must see the advantages obtained by management and delay in this trial, they most undoubtedly will avail themselves of the same, or similar means of procrastination. Should this evil become general, it must and will, like all others, when arrived to a certain height, redress itself;

itself; that is, a law must be made to limit the length of the proceedings. It may hereafter be found full as necessary to guard against the oppressions of Representatives, as against the power of the Throne.

THE END.